

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

March 14, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-2430-CR-NM

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

ORESTES A. RODRIGUEZ,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for La Crosse County: MICHAEL J. MULROY, Judge. *Affirmed.*

Before Gartzke, P.J., Sundby and Vergeront, JJ.

PER CURIAM. Counsel for Orestes Rodriguez has filed a no merit report pursuant to RULE 809.32, STATS. Rodriguez was informed of his right to respond to the report and has elected not to respond. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal.

Pursuant to a plea agreement, Rodriguez entered a guilty plea to one count of delivering cocaine base. The State dismissed another count of delivering cocaine base and dropped the penalty enhancers for selling drugs within 1000 feet of a public school and a city park and for being a habitual offender. The second count of delivering cocaine was read-in for sentencing purposes. The plea agreement reduced the potential sentence to ten years. The trial court imposed a four-year sentence.

The no merit report addressed the propriety of the sentence. The trial court specifically considered the nature of the offense, Rodriguez's character and the need to protect the public. See *State v. Sarabia*, 118 Wis.2d 655, 673, 348 N.W.2d 527, 537 (1984). We conclude that any argument challenging the four-year sentence would be totally lacking in arguable merit.

We have also independently reviewed the record to determine whether there is any basis for challenging the guilty plea. At the plea hearing, the court reminded Rodriguez of the constitutional rights he waived by entering a guilty plea, the elements of the offense and the potential penalty. The court ascertained that the plea was knowingly, voluntarily and intelligently made. The trial court followed the procedures for taking a guilty plea set out in *State v. Bangert*, 131 Wis.2d 246, 389 N.W.2d 12 (1986). The guilty plea constitutes a waiver of all other nonjurisdictional defects and defenses. See *State v. Olson*, 127 Wis.2d 412, 418, 380 N.W.2d 375, 378 (Ct. App. 1985).

Our independent review of the record discloses no other potential issues for appeal. Therefore, we relieve Attorney Michael J. Devanie of further representing Rodriguez in this matter and affirm the conviction.

By the Court.—Judgment affirmed.